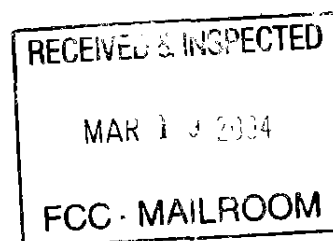


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**Oakland Unified School District
Technology Services**

Facsimile Transmittal



To Federal Communications Commission
Office of the Secretary
Washington, D.C.

PHONE
FAX (202) 418-0187

From: OSWALDO GALARZA
INFORMATION TECHNOLOGY
OFFICER
OAKLAND UNIFIED SCHOOLS
(510) 879-8872 OR 8288
oswaldo.Galarza@secmail.ousd.k12.ca.us

Date: March 10, 2004

Re: RE. PETITION FOR
RECONSIDERATION

Pages: 9 (including cover sheet)

PROCEEDING #DA 04-344

CC. DOCKET NO. 02-6

FILE NO SLD-363385

CC:

SEE ATTACHED DOCUMENTATION RE: PETITION FOR RECONSIDERATION
RE DA 04-344.

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OAG/wg

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Oakland Unified School District, attention Oswaldo A. Galarza

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5. Attorney Name (optional)

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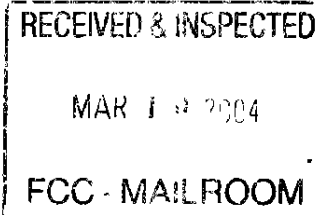
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OAKLAND UNIFIED SCHOOL DISTRICT
1025 SECOND AVENUE, OAKLAND, CALIFORNIA 94606

March 9, 2004

Federal Communications Commission (FCC)
Office of the Secretary
Washington, D.C., 20554



Dear Sir or Madam:

Re Petition for Reconsideration re DA 04-344

CC Docket No.	02-6
File No.	SLD-363385
Billed Entity Number:	144227
471 Application Number:	363385
Proceeding Number	DA 04-344
Release Date:	February 11, 2004

The Oakland Unified School District (District) respectfully submits a Petition for Reconsideration of the Oakland Unified School District's Request for Review released on February 11, 2004, Proceeding Number DA 04-0344 by the Federal Communication Commission Telecommunications Access Policy Division, Wireless Competition Bureau

Schools and libraries are fundamental institutions in American society. Each plays a critical role in the education of our nation's future leaders and in the preparation of an informed citizenry that is capable of making wise decisions and vital contributions to our national security, economic prosperity, and furtherance of long-standing values of American democracy.

In 1996, the Congress of the United States determined to address approaching challenges of the 21st century. In a rapidly changing information society, higher levels of knowledge and skills would be required for individuals and the nation to compete, communicate and succeed in a global context.

Passage of the Telecommunications Act of 1996 signaled an important milestone, not only of telecommunications progress but also of social policy. Through the Universal Service provisions of this law, Congress took remarkable action. It extended affordable access to advanced telecommunications services to all of the nation's schools, public and private, to classrooms and libraries.

It recognized the geographical diversity of schools and libraries: some situated in remote isolated areas, others in decaying or revitalized urban centers. Congress recognized the diversity in the costs of telecommunications services to those areas, and in the ability of schools and libraries, on their own, to pay these costs. It recognized the diversity inherent in teaching and learning and in the delivery of that instruction, including through telecommunications means.

While the Joint Federal and State Board for Universal Service and the Federal Communications Commission initiated and continue to adapt a set of rules and regulations for the Schools and Libraries Discounts Program, they have not wavered from important key principles.

The principle of affordability is of great important to the Oakland Unified School District, situated across the San Francisco Bay. The District's surrounding community is not one of overall high wealth, and the local tax base for support of schools reflects this economic reality. Affordability matters.

The District appreciates the commitment of the Federal Communications Commission to ensuring that the poorest and most disadvantaged schools and school districts are adequately connected to the Internet and receive equitable discounts for their telephone service.

The Oakland Unified School District educates 50,546 students from kindergarten through high school, and about 25,000 in adult school. Of its total kindergarten through grade 12 student enrollment, 63.6% are eligible for the federally subsidized Free and Reduced Price School Lunch Program with deeper poverty in many schools. Oakland's families are ethnically and racially diverse. 42.4% are African-American; 15% are Asian-Americans; 33.6% are Hispanic; 5.74% are Caucasian; 1.1% are Pacific Islander; 4.0% are Native American; .7% are Filipino, and .8% Other.

Affordability remains a critical issue as the nation's economy is not bouncing back from recession as rapidly as hoped, and job creation has been less than desired. Public schools are operating on limited budgets and states like California are in fiscal crisis.

The Oakland Unified School District applauds another principle that the Federal Communications Commission has sustained for the Schools and Libraries discounts program: that of equal opportunity for schools to gain access to telecommunications services for educational purposes no matter their circumstances or location.

It is in the context of the two underlying elements of Universal Service for schools and libraries, affordability and access, contained in the 1996 Act and implemented through FCC rules and regulations, along with basic notions of American justice, that the Oakland Unified School District submits this Petition for Reconsideration of an order by the Federal Communications Commission, Telecommunications Access Policy Division, Wireline Competition Bureau adopted on February 10, 2004 and released on February 11, 2004, identified as Proceeding Number DA 04-344

The following information underlies the Oakland Unified School District's belief that Form 471 application number 363385 was submitted properly to the Schools and Libraries Division (SLD), Universal Services Administrative Company (USAC) on February 6, 2003 and that an initial error, however unintentional, was made by the SLD. Absent that SLD original error, no appeal of Federal Communications rules and regulations would be necessary.

The Oakland Unified School District submitted Form 471 application numbers 351033 and 363385 together in the same envelope via FedEx on February 6, 2003. Based on FedEx signature records both applications were received by the SLD within the acceptable window or timeline.

On March 20, 2003 OUSD received a Certification Postmarked Outside of Window notification regarding Form 471 Application number 351033. The notice states that the Form 471 certification was postmarked on February 13, 2003. OUSD did not receive a Certification Postmarked Outside of Window notification regarding Form 471 Application number 363385. On April 17, 2003 OUSD submitted an e-mail appeal of the Certification Postmarked Outside of Window notification for Application number 351033.

On June 3, 2003 the appeal of Form 471 number 351033 was Approved For Certification. Both Form 471 application numbers 351033 and 363385 were submitted and received together in the same envelope. If Form 471 number 351033 was Approved For Certification as within the acceptable window then Form 471 number 363385 was also received within the acceptable window and should be Approved For Certification.

The District believes that there was an error made by the SLD on the initial receipt of the Form 471 applications, and that regardless of whether the District later met the FCC timeline rules the right and proper thing to do is to allow Form 471 number 363385 to be considered for the Schools and Libraries Program, in the same way that Form 471 number 351033 was considered. Were it not for the initial administrative and procedural error on the part of the SLD no appeal of any sort would be necessary and both Form 471 number 351033 and Form 471 number 363385 would have been certified properly in 2003.

On February 6, 2003, when the Oakland Unified School District submitted the two applications for Schools and Libraries Discounts under Universal Service provisions, the District had high expectations for realizing the dreams that the District and its families have for their students. The District commended the law's (Telecommunications Act of 1996) commitment to equal opportunity, to access to telecommunications services, and to equity in discount distribution.

The District believes that accountability is an important and integral part of the Schools and Libraries discounts program integrity. The District also believes that the Schools and Libraries Program of Universal Service is an inextricably linked partnership of discount

applicants, service providers, administrators and regulators. No entity is exempt from assuring appropriate accountability measures are taken.

Program integrity and accountability of all partners is essential to sustaining a viable program, maintaining an effective and efficient process, and combating waste, fraud and abuse.

However, the District believes that the Schools and Libraries Division of the Universal Service Support Mechanism made an error, a flawed set of decisions, that do not comport with the accountability standards and procedures of this program. Accountability does not fall solely on applicants.

The SLD demonstrated that it understood its initial error, its ruling that the District's single Federal Express envelope containing its two applications (numbers previously cited) was not received on time, and altered its positions. The SLD took action affirmatively to permit one of the two District applications to proceed forward, and certified it as, in fact, eligible for consideration for Schools and Libraries discounts by the SLD. The SLD reversed its original claims.

But the SLD failed to correct its error with the second OUSD application that was sent in the same package as the first. Thus the SLD denied equal access to affordable telecommunications services to some District students, and public schools, but not others. Furthermore, the District believes that the SLD failed to apply consistent and equitable implementation of Schools and Libraries Program policies and procedures, and exhibited deficient administrative oversight and practices. Equal access was hence denied, and equal treatment of the two applications and of the students and schools whose telecommunications interests were represented by those applications failed to occur.

SLD accountability or lack thereof, in the Oakland Unified School District's case presented herein, produces hurdles upon hurdles for applicants, and unjust outcomes for students, schools and school districts. This cannot simply be ignored, administratively nor in official rulings by the Federal Communications Commission. Accountability means everybody

The Oakland Unified School District believes that the FCC and the SLD should consider all applications fairly and equally. In this case, Form 471 applications numbers 351033 and 353385 were not treated equally even though both applications were received in the same envelope. Access to eligibility consideration was denied one application but not the other without explanation or explicit rationale for the difference in treatment.

The SLD appears to have been inconsistent in the application and implementation of its administrative procedures, program rules and policies in regard to Form 471 numbers 351033 and 353385. This has resulted in the expenditure of an extraordinary amount of resources, time, and energy on the part of the Oakland Unified School District, the SLD, USAC, and the FCC and denied access on a seemingly arbitrary basis to one group of students and schools but not others.

**Federal Communications Commission**

**The FCC Acknowledges Receipt of Comments From ...
Oakland Unified School District, attention Oswaldo A. Galarza
...and Thank You for Your Comments**

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Device ID: OAKA-POS2
Employee: 367518
Transaction: 800011679786

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858605734365 0 15 lb (S) \$17.24

Total Due: \$17.24

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Ship Date 02/06/2003
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Delivery Date/Time 02/07/2003 09:17
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Service Type Priority Envelope

Tracking Options

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